

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
THE TRADEMARK TRIAL AND APPEAL BOARD

TTAB

In the matter of application Serial No. 78/591,881
Published in the Official Gazette on August 8, 2006

Moreland, Bruce)	
)	
Opposer,)	Opposition No. 91173381
)	
vs.)	
)	
Funsten, Stan)	
)	
Applicant.)	

DEPOSITION NOTICE FOR BRUCE MORELAND

PLEASE TAKE NOTICE that, pursuant to the provisions of Fed. R. Civ. P. 30 and 45, and Trademark Trial And Appeal Board Manual of Procedure §404, Applicant, Stan Funsten will proceed to take deposition of **Bruce Moreland**, whose address is 375 Redondo Avenue No. 259, Long Beach, California 90814, to testify to the topics of Schedule A, together with all documents related thereto, on **May 3, 2007**, beginning at 9:00 a.m., at the offices of Greenberg Traurig LLP, 650 Town Center Drive, Suite 1700, Costa Mesa, California 92626, before a duly authorized officer certified to administer oaths and take depositions. Said deposition will be taken stenographically, will be taken for the purpose of discovery and all other purposes authorized by law, and will continue until completed.

Pursuant to Fed. R. Civ. P. 30(b)(5) and 34, Mr. Bruce Moreland is to bring to the deposition the documents identified in Schedule B.



04-18-2007

U.S. Patent & TMO/TM Mail Rept Dt #72

You are invited to attend and cross-examine.

DATED this 18 day of April, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Elise Tenen-Aoki', written over a horizontal line.

Elise Tenen-Aoki
Peter J. Gluck
Ehab M. Samuel
Greenberg Traurig LLP
650 Town Center Drive, Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500
Fax: 714.708.6501

SCHEDULE A
TO APPLICANT'S DEPOSITION NOTICE
FOR BRUCE MORELAND

1. Any and all information regarding your representation of the unincorporated association of "Wall of Voodoo associates": Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Boonie Hart party of interest of her son Marc Moreland, and Ned Leukhardt.
2. Any and all information regarding your role with the "Wall of Voodoo" rock and roll group.
3. Any and all information regarding the role of the "Wall of Voodoo associates" with the "Wall of Voodoo" rock and roll group.
4. Any and all information regarding your rights to the name "Wall of Voodoo."
5. Any and all information regarding the rights of the "Wall of Voodoo associates" to the name "Wall of Voodoo."
6. Any and all information regarding the rights of Stan Funsten to the WALL OF VOODOO mark.

SCHEDULE B
TO APPLICANT'S DEPOSITION NOTICE
FOR BRUCE MORELAND

INSTRUCTIONS

A. YOU must produce all DOCUMENTS responsive to these requests which are in your actual or constructive possession, custody or control, including all DOCUMENTS within the actual or constructive possession, custody or control of any representative, agent, employee, attorney, accountant, investigator or any person acting for YOU or on YOUR behalf.

A. All DOCUMENTS are to be produced in the files in which such DOCUMENTS have been maintained and in the order within each file in which such DOCUMENTS have been maintained.

B. If YOU withhold any DOCUMENT(S) from production on the basis of a claim of attorney-client or any other privilege, or on the basis of the attorney work-product doctrine, YOU must set forth with specificity the privilege or work product claim and furnish a list identifying each DOCUMENT for which the privilege or work product doctrine is claimed, together with:

1. a brief description of the nature and subject matter, including the title and type of the document;
2. the date of preparation;
3. the name and title of the author(s);
4. the name and title of the addressee(s);
5. the name and title of all persons to whom the DOCUMENT was sent, including blind carbon copies;
6. the number of pages;
7. the DOCUMENT request(s) to which the withheld information or DOCUMENT is otherwise responsive; and
8. the complete basis upon which YOU contend YOU are entitled to withhold the information or DOCUMENT from production.

C. If YOU know of the existence, past or present, of any DOCUMENT requested herein, but are unable to produce such DOCUMENT because it is not presently

in YOUR possession, custody or control, or in the possession, custody or control of YOUR agents, representatives or attorneys, YOU shall so state in YOUR response and shall identify (by title, if any, nature of DOCUMENT and subject matter) such DOCUMENT and shall identify (by name, address and telephone number) the person in whose possession, custody or control the DOCUMENT was last known to reside.

D. If any DOCUMENT requested herein has been lost, discarded or destroyed, the DOCUMENT so lost, discarded or destroyed shall be identified as completely as possible in your response to the particular request, including, without limitation, the following information: date, content, author(s) and recipient(s) of the document(s); date of disposal; manner of disposal and person disposing of the DOCUMENTS. YOU shall further identify in your response to the request the name, address and telephone number of the person in whose possession, custody or control the DOCUMENT was last known to reside.

E. If, in responding to this inspection demand, YOU claim that there is any ambiguity in either a particular request or in a definition or an instruction applicable thereto, such claim shall not be used by YOU as a basis for refusing to respond, but YOU shall set forth as part of the response the language deemed to be ambiguous and the interpretation chosen or used in responding to the particular request.

F. For purposes of interpreting or construing the following DOCUMENT requests, the terms used are to be given their most expansive and inclusive interpretation unless otherwise specifically limited in the DOCUMENT request itself. This includes, without limitation, the following:

1. Construing the words "and" and "or" used in any DOCUMENT request in the disjunctive or conjunctive as necessary, to make the DOCUMENT request more inclusive;
2. Construing the words "any" and "all" used in any DOCUMENT request to mean "any and all" as necessary to make the document request more inclusive;
3. Construing the singular form of any word to include the plural and the plural form to include the singular; and
4. Construing the masculine form to include the feminine and/or the gender neutral form.

G. The requests are not duplicative. If a DOCUMENT is produced in response to one request or in response to a prior deposition notice, it need not be produced in response to another request.

DEFINITIONS

1. The term "YOU" means and refer to the Opposer, Bruce Moreland; the unincorporated association of "Wall of Voodoo" associates, (including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt)its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer's past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.

2. The term "APPLICANT" means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.

3. The term "DOCUMENT" or "DOCUMENTS" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work, copies of drafts thereof, proofs, tear sheets, scripts, storyboards,

etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

4. The term "THING" as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

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REQUEST FOR PRODUCTION OF DOCUMENTS

1. YOU must produce all DOCUMENTS and THINGS evidencing, relating or referring to your contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed ‘Wall of Voodoo,’ foregoing all future interest in the music business enterprise ‘Wall of Voodoo.’”

2. YOU must produce all DOCUMENTS responsive to APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, previously served to YOU by first class mail, postage prepaid on January 9, 2007, and was served again to YOU on March 6, 2007 via Certified Mail No. 7004 2510 0003 5653 9514.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing
DEPOSITION NOTICE FOR BRUCE MORELAND was served April 18, 2007 by
Personal Service to Opposer:

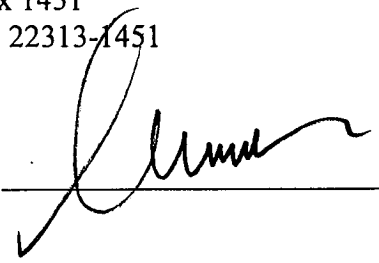
Bruce Moreland
375 Redondo Ave 259
Long Beach, CA 90814

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **DEPOSITION NOTICE FOR BRUCE MORELAND** was deposited with the United States Postal Service with sufficient postage as **Express mail No. EV 777 772 994 US** to Opposer at the address and on the date indicated below:

Commissioner for Trademarks
Post Office Box 1451
Alexandria, Virginia 22313-1451

Dated: 4/19/09

By: _____

Issued by the
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MORELAND, BRUCE,

Opposer,

SUBPOENA IN A CIVIL CASE

v.

Case Number: ¹ Opposition No. 91173381[In the United States Patent and Trademark Office
Before the Trademark Trial and Appeal Board]

FUNSTEN, STAN,

Applicant.

TO: BRUCE MORELAND, 375 Redondo Avenue, #259, Long Beach, CA 90814

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Greenberg Traurig, LLP
650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626

DATE AND TIME

Date: May 3, 2007
Time: 9:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorney for Applicant

April 18, 2007

ISSUING OFFICER'S NAME ADDRESS AND TELEPHONE NUMBER

Ehab M. Samuel; Greenberg Traurig, LLP
650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626; Tel: 714-708-6500; Fax: 714-708-6501

(See Rule 45, Federal Rules of Civil Procedure, parts C & D on reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to

the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or the demanding party to contest the claim.

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.